

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

JOHNNY WILLIAMS

PLAINTIFF

v.

CIVIL ACTION NO.: 4:20-CV-178-JMV

TOIMESHIA BURNETT

DEFENDANT

**ORDER GRANTING IN PART AND DENYING IN PART
MOTION TO COMPEL**

Before the Court is Plaintiff's motion to compel defendant to answer discovery [43]. Plaintiff submitted a Rule 37(a) affidavit stating Defendant's failure to provide discovery responses after extensive grants of accommodation and additional time [47]. In Defendant's response [46], Defendant's counsel admits that they have been unable to get final answers to interrogatories reviewed, approved, and executed by the Defendant. While counsel for Defendant recently entered an appearance in this matter, the record reveals that discovery was served with the state court complaint in this matter on or about September 15, 2020.

In his reply [48], Plaintiff states that he has now received Defendant's responses to his requests for production. He also withdraws his request for consequential admissions. Nonetheless, he requests that Defendant be ordered to fully answer the interrogatories within twenty (20) days.

Federal Rule of Civil Procedure 37(a)(5)(A) states in relevant part, "the court *must*, after giving an opportunity to be heard, require the party or deponent whose conduct necessitated the motion, the party or attorney advising that conduct, or both to pay the movant's reasonable expenses incurred in making the motion, including attorney's fees." (emphasis added).

Accordingly, the award of costs is mandatory pursuant to Rule 37 where the motion to compel is meritorious, which the court finds that it is.

DEFENDANT IS, THEREFORE, ORDERED to pay Plaintiff's reasonable expenses, including attorneys' fees, which were incurred in making the Motion to Compel [43]. Further, Defendant must provide responses to the propounded Interrogatories by Wednesday, January 19, 2022.

Plaintiff is instructed to submit the itemized fees and expenses to the court and counsel opposite within five business days. Counsel for Defendant shall have five business days after submission to make any objections to the reasonableness thereof.

SO ORDERED, this, the 29th day of December, 2021.

/s/ Jane M. Virden
UNITED STATES MAGISTRATE JUDGE